

Message Text

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ACTION IO-14

INFO OCT-01 ISO-00 IOE-00 AF-10 ARA-16 EA-11 EUR-25 NEA-14

RSC-01 L-03 PA-04 PRS-01 USIA-15 AID-20 CEQ-02

CIAE-00 COA-02 COME-00 DODE-00 EB-11 EPA-04 INR-11

NSF-04 NSC-07 NSAE-00 PM-07 SCI-06 SS-20 SP-03

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E.O. 11652: N/A

TAGS: ECOSOC, EGEN, UN, UNCTAD

SUBJ: 57TH ECOSOC--PERMANENT SOVEREIGNTY OVER
NATURAL RESOURCES.

1. ECONOMIC COMITE COMPLETED DEBATE ON PERMANENT
SOVEREIGNTY OVER NATURAL RESOURCES IN TWO SESSIONS
JULY 15. SOME 20 DELEGATIONS SPOKE. LDCS MAINTAINED
THAT TIME HAD COME TO MOVE FROM ACCEPTED PRINCIPLE
OF PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES TO
THE SPECIFICS OF THAT PRINCIPLE'S IMPLEMENTATION.
ALGERIA, HOWEVER, CAUTIONED THAT DIFFICULT AND IN-
CONCLUSIVE DEBATES ON THIS PRINCIPLE AT MEXICO CITY
SESSION OF UNCTAD WORKING GROUP ON CHARTER OF ECONOMIC
RIGHTS AND DUTIES DEMONSTRATED THAT EVEN CONTENT OF
THE PRINCIPLE REMAINS IN DISPUTE. ALGERIAN, PAKISTAN
AND OTHER DELS ATTACKED "CLASSICAL" RULES OF INTER-
NATIONAL LAW IN THIS SPHERE AS COLONIALIST AND
OBSOLETE.

2. PAKISTAN STATED THAT, WHILE STATUS OF FOREIGN
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INVESTMENT IS GOVERNED BY NATIONAL RATHER THAN INTER-

NATIONAL LAW, NATIONAL LAW SHOULD BE FAIR. IT SUGGESTED THAT TECHNICAL ASSISTANCE BE EXTENDED TO LDCS IN PREPARING MODEL CODES OF LEGISLATION GOVERNING FOREIGN INVESTMENT, A SUGGESTION WHICH SPAIN AND FRG ENDORSED. FRG RESTATED STANDARD EC VIEWS ON PERMANENT SOVEREIGNTY, NOTABLY THAT NATIONALIZATION MUST BE FOR A PUBLIC PURPOSE, NON-DISCRIMINATORY AND ENTAIL PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION.

3. SEVERAL DELS COMMENTED ON SPECIFICS OF REPORT OF SYG ON PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES OF 3 OCT 1973, E/5425. USSR DESCRIBED IT AS "SIGNIFICANT STEP FORWARD". BRAZIL TOOK EXCEPTION TO PARAS 14, 21 AND 55 OF REPORT, WHILE COMMENDING OTHER PASSAGES.

4. U.S. ALTERNATE REP (SCHWEBEL) ASSOCIATED U.S.

WITH FRG STATEMENT OF RELEVANT PRINCIPLES OF INTERNATIONAL LAW. HE STATED THAT THESE PRINCIPLES FOR THE PROTECTION OF THE PERSONS AND PROPERTY OF ALIENS, FAR FROM BEING OBSOLETE, COMPORTED WITH UNIVERSAL DECLARATION OF HUMAN RIGHTS. NOTING THAT OTHER DELS HAD EXPRESSED CRITICISM OF SYG'S REPORT FROM THEIR PERSPECTIVES, HE STATED THAT USDEL FOUND CERTAIN PARAS OF E/5425 TO BE LACKING IN OBJECTIVITY AND BALANCE. E.G., P. 15 OF THE REPORT SETS OUT "THE CASE FOR NATIONALIZATION". BUT THE CASE AGAINST NATIONALIZATION WAS OMITTED. PARA. 44 BOTH DEPRECIATED AND MISSTATED APPLICABLE INTERNATIONAL LAW. GENERALLY THE REPORT APPEARED TO ADVOCATE NATIONALIZATION AND TO OVERLOOK FACT THAT STATES MAY CHOOSE TO EXERCISE THEIR SOVEREIGNTY OVER NATURAL RESOURCES IN VARIOUS WAYS, OF WHICH NATIONALIZATION ONLY ONE. PARTICULARS OF THE REPORT'S LACK OF BALANCE WERE TO BE FOUND IN PARAS 11, 17, 18, 21, 22, 25, 26, 27, 36, 37, 47, 48, 50, 53 AND 56.

5. AFTER MEETING, JACOB MOSAK, DEPUTY UNDER SECRETARY GENERAL, APPROACHED USDEL TO SAY THAT HE HAD IMPRESSION THAT ITS CRITICISM OF LACK OF BALANCE OF UNCLASSIFIED

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E/5425 IS JUSTIFIED. HE EXPLAINED THAT THE REPORT WAS PREPARED IN ANOTHER SECTION OF THE SECRETARIAT AND THAT HE HAD SUBSEQUENTLY BEEN GIVEN RESPONSIBILITY FOR THE SUBJECT. HE SAID HE WOULD APPRECIATE LETTER BEING SENT TO SECRETARIAT (HE NOTED THAT HE WOULD BE AN APPROPRIATE ADDRESSEE) SETTING OUT THE DETAILS OF USG CRITICISM OF THE REPORT. WE INDICATED SUCH A LETTER WOULD BE PROVIDED IN DUE COURSE.

6. COMMENT: USDEL BELIEVES THAT ITS INTERVENTION WAS USEFUL IN DEMONSTRATING (A) BIAS OF SYG'S REPORT AND DEFECTS IN ITS ANALYSIS AND THAT (B) USG WILL IN EXTREME CASES SUCH AS THIS ENDEAVOR TO RIGHT BALANCE EVEN IF THAT ENTAILS CRITICISM OF SECRETARIAT WORK PRODUCT. MOSAK'S REACTION WAS ENCOURAGING, AND WE THINK IT DESIRABLE THAT HE BE PROVIDED WITH DETAILS HE REQUESTED. END COMMENT.

7. IT IS UNCLEAR WHAT, IF ANY, RESOLUTION ON PERMANENT SOVEREIGNTY WILL BE PROPOSED. CHAIRMAN SUGGESTED THAT NOTE BE TAKEN OF SYG'S REPORT BUT LDCS INDICATED THAT MAY WISH MORE SUBSTANTIAL RES.DALE

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